Supreme Court, U.S.
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No. 92-1241

IN THE

Supreme Court of the United States

OCTOBER TERM, 1992

OWENS-ILLINOIS, INC.,
Petitioner,
v.
REUBEN S. POOL, ET AL,
Respondents.

On Petition For a Writ of Certiorari To
The Supreme Court of Texas

OBJECTION TO MOTION FOR LEAVE TO FILE BRIEF *AMICUS CURIAE* OF CONTINENTAL CASUALTY COMPANY IN SUPPORT OF PETITIONER

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TO THE HONORABLE COURT:

Respondents herein, REUBEN S. POOL, ET AL, respectfully submit and file this objection, in accordance with Rule 37.4, to the Continental Casualty Company's request for leave to file an *amicus curiae* brief in this case.

I.

A review of Continental Casualty Company's proposed *amicus curiae* brief quickly reveals that it does *not* satisfy the requirements of Rule 37 of the Rules of this Court.

For example, the subject brief is wholly argumentative and does not present this Court with any new questions or issues that have not already been presented by Petitioner, Owens-Illinois, Inc. As such, the brief fails to satisfy Rule 37.1 of the Rules of the Supreme Court. Therefore, its filing should not be favored by the Court.

Furthermore, Continental Casualty Company's *motion* for leave to file does not present this Court with any facts or questions of law that have not already been presented by the parties in this case. Indeed, the first paragraph of the motion for leave to file identifies a single question for the Court:

> ". . .whether multiple awards of punitive damages against a party for a single course of conduct that ended many years ago violates that party's procedural and substantive due process rights."

This question was the second question presented and urged by Petitioner, Owens-Illinois, Inc., in its Petition for a Writ of Certiorari. Obviously, the motion for leave to file an *amicus curiae* brief submitted by Continental Casualty Company does *not* set forth any new or independent question of law. Consequently, the motion for leave to file is in violation of Rule 37.4 of the Rules of this Court.

II.

In addition, the issue of multiple punitive damage awards in the mass tort context has also been presented by other Petitioners in the following cases:

a. No. 92-1471, *Petitioner*, The Celotex Corporation; and

b. No. 92-1474, *Petitioner*, Fibreboard Corporation.

Respondents herein are also the Respondents in the aforementioned cause numbers. As the Court will recall, Respondents submitted a single "Respondents' Brief in Opposition" in reply to all of the petitions for writ of certiorari filed in Cause Nos. 92-1241, 92-1471, 92-1474, and 92-1502. The petitions for writ of certiorari in all of these cases stem from a single trial held in the 4th Judicial District Court of Rusk County, Texas, on October 2, 1989 through October 19, 1989.

In their Respondents' Brief in Opposition, the Respondents *also* addressed the particular question now presented by Continental Casualty Company in its motion for leave to file an *amicus curiae* brief.

In addition, the Continental Casualty Company acknowledges and admits that The Celotex Corporation and Fibreboard Corporation have asked this Court to review the *same issue* now presented by Continental Casualty Company. *See*, Brief *Amicus Curiae* of Continental Casualty Company, p. 3 (footnote 1). The motion for leave to file is therefore in clear violation of Rule 37.1 and Rule 37.4 of the Rules of this Court and should not be granted.

CONCLUSION AND PRAYER

Respondents pray the Court deny and overrule the Motion for Leave to file Brief *Amicus Curiae* of Continental Casualty Company, as the motion presents nothing for review by this Court that has not already been presented by the parties in Cause Nos. 92-1241, 92-1471, 92-1474, and 92-1502.

Respectfully submitted,

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